

## **REMARKS/ARGUMENTS**

### **Notice of Paper Submission Under 37 C.F.R. 1.34(a)**

The present paper is submitted under 37 CFR 1.34(a) and MPEP 405 by the undersigned Applicant's representative, who is not the attorney of record in the present application. All communications regarding the present application should continue to be directed to the attorney of record, Ivan S. Kavrukov, Cooper & Dunham LLP, 30 Rockefeller Plaza, 20<sup>th</sup> Floor, New York, NY 10112.

### **Summary**

Upon entry of the instant Amendment, Claims 3-4, 6-8, 11-20, and 41-46 will be pending. By the instant Amendment, Claims 1-2, 5, 9-10, and 21-40 have been canceled, and Claims 3, 6, 8, 11, 13, 17, 19, 41, and 43 have been amended.

### **Restriction/Election**

Claims 21-37, which were withdrawn from further consideration as being drawn to non-elected inventions, have been canceled by the instant Amendment, with Applicants reserving the right to prosecute the subject matter of Claims 21-37 in one or more continuing applications.

### **Terminal Disclaimer**

In the Office Action dated January 20, 2010 ("the Office Action"), Claims 1-20 and 38-46 were rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-50 of U.S. Pat. 7,103,205 in view U.S. Pat. 5,938,613 to Shmulewitz. A terminal disclaimer respecting U.S. Pat. 7,103,205 is being submitted herewith to overcome the double-patenting rejection.

### **Claim 3**

It is respectfully believed that the Office Action contains a typographical error at Page 4, Paragraph 4, where Claim 3 is included in a listing of claims rejected under 35 USC 102(b). This is believed to be a typographical error because Claim 3 is not discussed further in Paragraph 4, and because Claim 3 is included in the listing of "Allowable Subject Matter" on Page 7 of the Office Action. Accordingly, it is assumed for purposes of this Amendment that Claim 3 was not rejected under 35 USC 102(b), but rather was only objected to as being dependent on a rejected base claim.

### **Allowable Subject Matter**

Applicants appreciate the indication in the Office Action that Claims 3-4, 6-8, 11-12, 17-18, and 41-42 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and assuming that the above-referenced terminal disclaimer is submitted. In accordance therewith, each of Claims 3, 6, 8, 11, 17, and 41 has been rewritten in independent form including all of the limitations of the base claim and any intervening claims.

More specifically, Claim 3 has been rewritten in independent form to include the limitations of Claim 1 (now canceled) and Claim 2 (now canceled). Claim 6 has been rewritten in independent form to include the limitations of Claim 1 (now canceled), Claim 2 (now canceled), and Claim 5 (now canceled). Claim 8 has been rewritten in independent form to include the limitations of Claim 1 (now canceled), Claim 2 (now canceled), and Claim 5 (now canceled). Claim 11 has been rewritten in independent form to include the limitations of Claim 1 (now canceled), Claim 9 (now canceled), and Claim 10 (now canceled). Claim 17 has been rewritten in independent form to include the limitations of Claim 1 (now canceled) and Claim 9 (now canceled). Finally, Claim 41 has been rewritten in independent form to include the limitations of Claim 38 (now canceled) and Claim 39 (now canceled).

For the avoidance of doubt and to facilitate proper grouping and numbering of claims in the issued patent, it is emphasized that dependent Claim 19 has been amended

to depend from the now-independent Claim 11, and that dependent Claim 40 has been canceled outright.

It is therefore submitted that Claims 3-4, 6-8, 11-20, and 41-46 (of which Claims 3, 6, 8, 11, 17, and 41 are now in independent form) are in condition for allowance.

The Office is hereby authorized to charge any fees that may be required in connection with this amendment and to credit any overpayment to Deposit Account No. 50-3014. If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition, and the Commissioner is authorized to charge the requisite fees to Deposit Account No. 50-3014. If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call Ivan S. Kavrukov, the attorney of record in the instant patent application, at the telephone number listed below. Entry of this amendment and allowance of this application are respectfully requested.

Respectfully submitted,

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